

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

TORRANCE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014020113

ORDER DENYING REQUEST FOR
CONTINUANCE

On February 12, 2014 the parties filed a joint request to continue the hearing for over seven months on the ground that a District administrator was not available on the date initially scheduled for mediation and on the ground District had scheduled an informal resolution session in March.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Good cause was not shown to justify such an extraordinarily lengthy continuance. District's due process request concerned its offer of placement made in November of 2013 for the 2013-2014 school year. The unavailability of a District administrator for one day of mediation is not good cause to continue this District-requested hearing for seven months. Similarly, an informal resolution session is not required in a District-filed matter, so this also does not constitute good cause. Further, although District is free to assign personnel as it chooses, designating a single administrator as being authorized to represent the District in due process matters is not good cause for a continuance. The administrator can delegate her responsibilities if unavailable. Finally, given the issue raised by District, it would be an absurd result to continue this matter into the 2014-2015 school year.

IT IS SO ORDERED.

DATE: February 12, 2014

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings